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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,937	03/25/2004	Geoffrey H. Gorres	16360-002001	6884

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EXAMINER
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BEFUMO, JENNA LEIGH

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/808,937

**Applicant(s)**

GORRES, GEOFFREY H.

**Examiner**

Jenna-Leigh Befumo

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 14-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/05, 10/05</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1 - 13, drawn to a camouflage wrap, classified in class 442, subclass 181.
  - II. Claims 14 - 20, drawn to a method of using a camouflage wrap, classified in class 428, subclass 919.
  - III. Claims 21 - 24, drawn to a method of making a camouflage wrap, classified in class 427, subclass 466.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions III and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case camouflage can be added to the wrap by using pre-dyed materials or adding camouflage materials to the wrap when the wrap is being produced instead of after the wrap is produced.
3. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the can be used as camouflage by wrapping the self-adherent wrap around an object and then adding three dimensional camouflage to the outer surface of the wrapped object.

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4. Inventions II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions effects and functions. The invention of group II is a process to apply a camouflage design to a wrap and the invention of group III is a process to apply a wrap to an object.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Angela Parsons on September 28, 2005 a provisional election was made with traverse to prosecute the invention of Group I, claims 1 – 13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 14 – 24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Definitions***

7. The term self-adherent is interpreted as a material which does not adhere to the object being covered and does not require fasteners to attach to said object as defined in the disclosure (specification, page 3, lines 17 – 20).

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1 – 6, 9, 10, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Huber et al. (5,066,529).

Huber et al. discloses a camouflage wrapping tape which can be wrapped around objects to camouflage them (abstract). The camouflage can be applied to various objects including bows, rifles barrels, stand supports (column 1, lines 25 – 30). The tape may be made from a stretchy material which can wrap irregular surfaces such as the elastic shirred web material described in US 3,575,782 (column 2, lines 55 – 63). The applicant teaches in the disclosure that the elastic web taught by US 3,575,782 is a self-adherent web which sticks to itself and not to the object it is applied to (specification, page 4, lines 1 – 5). The camouflage can be made to look like different things such as tree bark, cattail, grasses, or other oblong shapes (column 2, lines 18 – 20). The pattern can include various colors that would be in a natural background such as tan, brown, khaki, green, olive, grey and black (column 2, lines 42 – 45). And the pattern can be printed, painted, woven into the fabric, dyed or in any other way applied to the tape material (column 2, lines 65 – 68). Thus, claims 1 – 4, 6, 9, 10, and 13 are anticipated.

Claim 5 is also rejected since the final product would be the same regardless of when the camouflage pattern is applied to the wrap. In other words, whether the pattern is applied before or after the wrap is applied would not manipulatively effect the claimed product since both methods would produce an object camouflaged with a wrap having a camouflage pattern applied thereon.

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10. Claims 1 – 6, 9, 10, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Mullis (2002/0083507).

Mullis discloses a wrap having a camouflage pattern on one side and made from elastic material or having elastic ends (abstract). The elastic material keeps the wrap in place without requiring fasteners or adhering to the covered object (paragraph 13). The camouflage encompasses a material that has markings, patterns, or the like that blends in the surrounding that hunters find themselves in and include such colors as brown or green (paragraph 28). Thus, claims 1 – 6, 9, 10, and 13 are anticipated.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huber et al. or Mullis in view of Lee (4,792,471) or Crawford (4,517,230).

The features of Huber et al. and Mullis have been set forth above. Huber et al. and Mullis fail to teach using three dimensional camouflage. Lee is drawn to a camouflage wrapping system (abstract). Lee discloses that the camouflage wrap includes artificial foliage elements attached to the wrap (abstract). A wrap having physically affixed thereto artificial leaves, flowers, weeds, etc, creates a three-dimensional camouflage effect which increases the difficulty of the hunter being spotted (column 1, lines 35 – 45). Crawford is drawn to a camouflage material. Crawford discloses that the camouflaged material can include artificial leaves attached

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thereto (abstract). The three-dimensional camouflage makes the hunter's silhouette less visible (column 1, lines 15 – 35). Therefore, it would have been obvious to one of ordinary skill in the art to add three-dimensional camouflage as taught by Lee or Crawford to the camouflage wrap disclosed by Huber et al. or Mullis to help reduce the visibility of the hunter's silhouette and increase the effectiveness of the camouflage. Thus, claim 11 is rejected.

13. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huber et al. in view of Bylund et al. (5,486,385).

The features of Huber et al. have been set forth above. Huber et al. fails to teach having two different camouflage designs on the wrap. Bylund et al. is drawn to camouflage materials. Bylund et al. discloses that the can include various camouflage designs (column 6, lines 35 – 45). Also, the camouflage material can be made reversible by having a different camouflage pattern on each side of the camouflage material. Thus, it would have been obvious to one having ordinary skill in the art to apply a second camouflage design as disclosed by Bylund et al., to one side of the camouflage wrap disclosed by Huber et al. so that camouflage can be used in different environments by reversing the image which is exposed. Thus, claims 7 and 8 are rejected.

14. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huber et al. in view of Hamilton (5,010,589).

The features of Huber et al. have been set forth above. Huber et al. fails to teach incorporating any additives into the camouflage material. Hamilton is drawn to a camouflaged material for hunters (abstract). Hamilton discloses that hunters use scents applied to their clothing to attract animals (column 1, lines 5 – 8). Thus, it would have been obvious to one

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having ordinary skill in the art to apply scents and lures to the removable camouflaged wrap disclosed by Huber et al. to attract animals during use. Thus, claims 12 is rejected.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jenna-Leigh Befumo  
December 10, 2005